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Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JESSE ARON ROSS,

Plaintiff,

Case No.: 2:13-cv-00355-GMN-VCF

vs.

AMY KRUEGER, et al.,

Defendant.

DEFENDANTS' MOTION TO ENLARGE TIME FOR FILING JOINT PRETRIAL
ORDER
AND ORDER THEREON

Defendants, Amy Krueger, Anthony Demeo, Brian Young, Carina Skyles, Danny Ellis, Jadey Zaragoza, Karyn Smith, Melissa Taylor, Ricardo Ramirez, Richard Marshall, Scott Gutheridge, Shirley Trummell, Terry Rising, Greg Arms, and Nye County (collectively "Defendants"), by and through their attorney of record, Brian Hardy, Esq., with the law firm of Marquis Aurbach Coffing, hereby file their Motion to Enlarge Time for Filing Joint Pretrial Order.

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This Motion is made and based upon all papers, pleadings, and records on file herein, the attached Memorandum of Points and Authorities, and any oral argument allowed at a hearing on this matter.

Dated this 1st day of May, 2015.

MARQUIS AURBACH COFFING

By 
 Craig R. Anderson, Esq.
 Nevada Bar No. 6882
 Brian R. Hardy, Esq.
 Nevada Bar No. 10068
 Jonathan B. Lee, Esq.
 Nevada Bar No. 13524
 10001 Park Run Drive
 Las Vegas, Nevada 89145
 Attorneys for Defendants

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND RELEVANT FACTUAL BACKGROUND.

Pursuant to Local Rule LR 16-3 and the Scheduling Order in this matter, the Parties were charged with submitting to the Court a Joint Pretrial Order no later than thirty (30) days from the entry of the Court's ruling on dispositive motions. Importantly, on March 31, 2015, the Court issued an Order, granting in part and denying in part Defendants' Motion for Summary Judgment. Accordingly, the Parties were required to submit a Joint Pretrial Order no later than May 1, 2015.

Unfortunately, considering Plaintiff Jesse Ross ("Ross") is incarcerated and prompt communication has proved to be difficult in this matter, Defendants do not believe the May 1st deadline for the Joint Pretrial Order will be met.¹ Importantly, both Parties have been in communication with one another regarding the Joint Pretrial Motion and have acted in good faith regarding this issue. Specifically, on April 16, 2015 counsel for the Defendants and Ross

¹ Importantly, Defendants do not claim that either party has done anything to delay the submission of the Joint Pre-trial Order, Defendants are simply pointing out the logistical hurdles both Parties have had to adjust to considering Ross' detention.

engaged in telephonic communication to discuss the status of the case and the required Joint Pretrial Order. Then, last week, Defendants mailed Ross their proposed Joint Trial Order and requested that Ross review and complete the sections of the Pretrial Order pertaining to him.² Based on the foregoing, Defendants move the Court for a fourteen day extension to submit the required Joint Pretrial Order, which amounts to a deadline of May 15, 2015.

II. LEGAL ARGUMENT

Defendants make this request pursuant to FRCP 6(b) and Local Rule 6-1. Under Federal Rule of Civil Procedure 6(b) the court, for good cause, may extend time “with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.” See FRCP § 6(b)(1)(A). Here, as explained above, Ross’ incarceration and the realities of the detention’s center communication policy have served as an impediment in finalizing a Joint Pretrial Order. Notably, the Joint Pretrial Order is essentially completed;³ Defendants are simply waiting on Ross to receive our proposal and add his sections to the order.

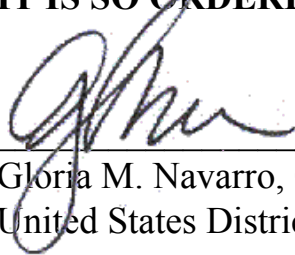
III. CONCLUSION

Based on the foregoing, Defendants request that this Court extend the deadline to submit the required Joint Pretrial Order to May 15, 2015.

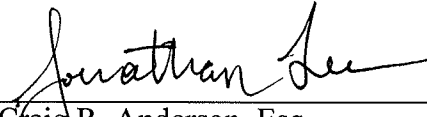
Dated this 1st day of May, 2015.

MARQUIS AURBACH COFFING

IT IS SO ORDERED.


Gloria M. Navarro, Chief Judge
United States District Court

DATED: 05/04/2015


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Las Vegas, Nevada 89145
Attorneys for Defendants

² See Defendants correspondence to Ross dated April 24, 2015, attached hereto as **Exhibit 2**.

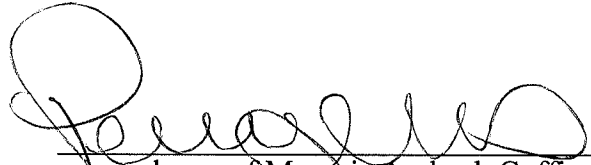
³ See Defendants’ Proposed Joint Trial Order enclosed within Exhibit 2, attached hereto as **Exhibit 3**.

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of May, 2015, I served a copy of the foregoing
**DEFENDANTS MOTION TO ENLARGE TIME FOR FILING JOINT PRETRIAL
ORDER** upon each of the parties by depositing a copy of the same in a sealed envelope in the
United States Mail, Las Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

Jesse Aron Ross, ID #1095756
4-B-28
High Desert State Prison
PO Box 650
Indian Springs, Nevada 89070
Pro Se

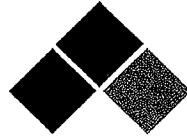
and that there is a regular communication by mail between the place of mailing and the place(s)
so addressed.


an employee of Marquis Aurbach Coffing

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Exhibit 1



MARQUIS AURBACH
COFFING

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DIRECT FAX: (702) 856-8908
EMAIL: BHARDY@MACLAW.COM

ALBERT G. MARQUIS
PHILLIP S. AURBACH
AVECE M. HIGBEE
DALE A. HAYES
TERRY A. COFFING
SCOTT A. MARQUIS
JACK CHEN MIN JUAN
CRAIG R. ANDERSON
DAVID A. COLVIN
TERRY A. MOORE
GERALDINE TOMICH
NICHOLAS D. CROSBY
JASON M. GERBER
MICAH S. ECHOLS
ERIK W. FOX
BRIAN R. HARDY
TYE S. HANSEEN
LIANE K. WAKAYAMA
CANDICE E. RENKA
DAVID G. ALLEMAN

JACK F. DEGREE
CODY S. MOUNTEER
CHAD F. CLEMENT
BENJAMIN T. AUTEN
KRISTIN L. GIFFORD
CHRISTIAN T. BALDUCCI
VINCENT J. VITATOE
JIMMY T. LEE
BRIANNA SMITH
JAMES J. RUGGEROLI
NIKITA R. PIERCE
JARED M. MOSER
JONATHAN B. LEE

JOHN M. SACCO
OF COUNSEL

April 24, 2015

Jesse Ross, #1095756
P.O. Box 650
Indian Springs, Nevada 89070

Re: Proposed Joint Trial Order
Our File No. 11779-66

Dear Mr. Ross:

Pursuant to Local Rule LR 16-3 and the Scheduling Order in this matter, the Parties must submit to the Court a Joint Pretrial Order no later than thirty (30) days from the entry of the Court's ruling on dispositive motions. Importantly, on March 31, 2015, the Court issued an Order, granting in part and denying in part Defendants' Motion for Summary Judgment. Within the Order, the Court also denied your Cross-Motion for Summary Judgment in its entirety. As such, the Parties must submit to the Court a Joint Pretrial Order no later than April 30, 2015.

Enclosed you will find Defendants' Proposed Joint Trial Order. Please review and complete the sections of the Pretrial Order pertaining to you (e.g., the witnesses you anticipate calling at trial and the documents you plan on introducing into evidence). Additionally, please review the trial dates that we have proposed in this matter. Notably, we have appealed the Court's denial of qualified immunity to the Ninth Circuit and, as such, these proposed dates may change.

Sincerely,

MARQUIS AURBACH COFFING

Brian R. Hardy, Esq.

BRH: JBL
Enclosure: Defendants' Proposed Pretrial Order

MAC:11779-066 2498182_1

Exhibit 2

MARQUIS AURBACH COFFING

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JESSE ARON ROSS,

Plaintiff,

Case No.: 2:13-cv-00355-GMN-VCF

vs.

AMY KRUEGER, et al.,

Defendant.

(PROPOSED) JOINT PRETRIAL ORDER

Following pretrial proceedings in this cause,

IT IS ORDERED

I. NATURE OF ACTION, RELIEF SOUGHT, IDENTIFICATION AND CONTENTIONS OF PARTIES

Plaintiff Jesse Aron Ross ("Ross") alleges Defendants violated his civil rights by denying him medical, dental, and mental treatment during his tenure at Nye County Detention Center ("NCDC"). He also claims that his rights were violated due the Defendants denying him access to the exercise yard at NCDC and due to the policies and customs the Defendants allegedly implemented with respect to administering proper medical, dental, and mental health treatment.

II. STATEMENT OF JURISDICTION

Ross filed the present Complaint in this Court, listing nine separate counts of violation to his civil rights. In Count One through Six, Ross alleges Defendants were deliberately indifferent to his medical needs in violation of the Fourteenth Amendment. Pursuant to Count Seven of his Complaint, Ross alleges an equal protection violation based on the same conduct alleged in Count One through Count Six. Count Eight is raised based on the Defendants allegedly denying Ross access to the exercise yard. Finally, Ross' last claim alleges Defendants violated the Fourteenth Amendment's Due Process Clause by failing to implement policies, customs, and practices that ensured detainees received timely medical treatment.

The Court granted summary judgment in favor of Defendants on four of the nine counts and dismissed three defendants all together. The Court denied Ross' cross-motion for summary judgment due to its untimeliness. Importantly, the Court has jurisdiction over this matter pursuant to 42 U.S.C. § 1983, as each of the surviving claims concerns a federal question.

III. FACTS THAT ARE ADMITTED BY THE PARTIES AND REQUIRE NO PROOF

The parties have no set of facts that can be stipulated upon at this time. As such, all fact shall require proof by the presenting party.

IV. FACTS, NOT ADMITTED, BUT WILL NOT BE CONTESTED AT TRIAL BY EVIDENCE TO THE CONTRARY

None.

V. ISSUES OF FACT TO BE TRIED AND DETERMINED UPON TRIAL

1. Did Defendants engage in conduct that would amount to deliberate indifference with respects to Ross' requests to see an optometrist?
2. Did Defendants engage in conduct that would amount to deliberate indifference with respects to Ross' alleged rotting teeth?
3. Did Defendants show deliberate indifference due to Ross allegedly passing blood?
4. Did Defendants deny Ross access to outside exercise in a manner that violates the Due Process Clause?

5. Did Defendants engage in conduct that would amount to a violation of the Fourteenth Amendment and Due Process Clause by failing to implement policies, customs, and practices that ensure detainees receive timely medical treatment?

6. What was the scope of Defendants' policy with respect to ensuring detainees received timely medical treatment?

7. Did Defendants implement such policy in an unconstitutional manner?

VI. ISSUES OF LAW TO BE TRIED AND DETERMINED UPON TRIAL

1. Did Defendants engage in conduct that would establish the necessary legal elements of a deliberate indifference claim?

2. Did Defendants engage in conduct that would establish the necessary legal elements to prove a violation of due process occurred with respect to the alleged denial of access to the exercise yard?

3. Did Defendants engage in conduct that would establish the necessary legal elements of a violation of the Fourteenth Amendment's Due Process Clause with respect to implementing policies, customs, and practices that ensured detainees receive timely medical treatment?

4. Was NCDC's policy with respect to administering medical treatment to detainees unconstitutional?

VII. EXHIBITS

A. EXHIBITS STIPULATED INTO EVIDENCE AND MAY BE SO MARKED BY THE CLERK

The Parties have not stipulated into evidence any exhibits which may so be marked by the Clerk and, as such, each party must authenticate all exhibits prior to admissibility. Nevertheless, the following represents the Parties proposed exhibits.

1. Plaintiff's Proposed Exhibits

[Please add your proposed exhibits]

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2. Defendants Proposed Exhibits

1. 2010 Emails regarding Jesse Ross (NYE (Ross) 00001-18);
2. 2011 Emails regarding Jesse Ross (NYE (Ross) 00019-92);
3. 2012 Emails regarding Jesse Ross (NYE (Ross) 00093-174);
4. 2013 Emails regarding Jesse Ross (NYE (Ross) 00175-212);
5. Inmate Grievances and Medical Requests– Jesse Ross (NYE (Ross) 00213-294);
6. Nye County Sheriff's Office Policies, Procedures, and applicable Rules (NYE (Ross) 00295-303)
 - Emergency Medical Procedures
 - NRS 211.140 Medical Care of Prisoners
 - Inmate Medication
 - Medical Services
 - Indigent Inmate Medical Program
7. June 2, 2010 Memorandum regarding Indigent Inmate Medical Application Forms (NYE (Ross) 00304-305);
8. Emails regarding Indigent Inmate Medical (NYE (Ross) 00306-307);
9. Medical Request Documents and Inmate Grievances – Jesse Ross (NYE (Ross) 00308-362);
10. Health and Human Services Rules for Medical (NYE (Ross) 00363-365);
11. Medical Request Documents and Inmate Grievances – Jesse Ross (NYE (Ross) 00366-439);
12. Transfer documents (NYE (Ross) 00440-449);
13. Medical Request Documents and Inmate Grievances – Jesse Ross (NYE (Ross) 00450-468);
14. Incident Log (NYE (Ross) 00469-570);
15. Emails regarding Jesse Ross (NYE (Ross) 00571-657);
16. Correspondence and Case documents regarding Jesse Ross (NYE (Ross) 00658-751);

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17. Nye County Sheriff's Office – Medical Chapter 400 (NYE (Ross) 00752-775);
18. Medical Request Documents and Inmate Grievances – Jesse Ross (NYE (Ross) 00776-799);
19. Nye County Detention Center Release of Property documents (NYE (Ross) 00800-803);
20. Medical Request Documents and Inmate Grievances – Jesse Ross (NYE (Ross) 00804-1034);
21. Nye County Detention Center Special Housing Observation Log (NYE (Ross) 01035-1036);
22. Transfer/Transport documents and Incident logs (NYE (Ross) 01037-1152);
23. Shirley Trummell's Employment History (NYE (Ross) 01153);
24. Nye County Health and Human Services entire file regarding Jesse Ross (NCHHS (Ross) 0001-295);
25. November 5, 2013 Procedures for Nye County Health and Human Services (NCHHS (Ross) 0296-329);
26. April 6, 2010 Procedures for Nye County Health and Human Services (NCHHS (Ross) 0330-366);
27. All documents regarding Jesse Ross in possession of Nye County Commissioners Office (NCC001-65);
28. Nye County Sheriffs Office Arrest Report (NYE (Ross) 001154-1155);
29. United States District Court, District of Nevada Case 2:12-cv-00210-GMN-PAL documents (NYE (Ross) 001156-1183);
30. Documents regarding lockdown -- Jesse Ross (NYE (Ross) 001184-1188);
31. Medical Request Documents and Inmate Grievances – Jesse Ross (NYE (Ross) 1189-1232);
32. Pahrump Township Justice Court Case No. 11CR00423 documents (NYE (Ross) 1233-1236); and
33. Medical records received from Jesse Ross (PLAINTIFF 000001-17).

B. ADDITIONAL EXHIBITS THE PARTIES HAVE STIPULATED TO:

The Parties have not reached any stipulations with respect any exhibits and, as such, each party must authenticate all exhibits prior to admissibility.

VIII. EXHIBITS THE PARTY AGAINST WHOM THE SAME WILL BE OFFERED OBJECTS TO ADMISSION UPON THE GROUNDS STATED:

As to the forgoing exhibits, the party against whom the same will be offered objects to their admission upon the following grounds:

1. Objections to Plaintiff's exhibits: Foundation, Authenticity, Hearsay, Relevance and Admissibility.
2. Objections to all Defendants' exhibits:

A. DEPOSITIONS**1. Plaintiff will offer the following depositions:**

N/A

2. Defendants' will offer the following depositions:

Any sworn testimony of the Plaintiff available at the time of trial.

B. OBJECTIONS TO DEPOSITIONS**1. Defendants object to Plaintiff's depositions as follows:**

N/A

2. Plaintiff objects to Defendants' depositions as follows:

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IX. WITNESSES THAT MAY BE CALLED BY PARTIES UPON TRIAL

A. NAMES AND ADDRESSES OF PLAINTIFF'S WITNESSES

[Please add any witnesses you intend to call at trial]

B. NAMES AND ADDRESSES OF DEFENDANTS' WITNESSES

1. Jesse Aron Ross, ID #1095756
4-B-28
High Desert State Prison
PO Box 650
Indian Springs, Nevada 89070
2. Anthony DeMeo
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
3. Rick Marshall
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
4. Persons Most Knowledgeable – Nye County Sheriff's Office
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
5. Persons Most Knowledgeable – Nye County Health and Human Services
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
6. Amy Krueger
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
7. Brian Young
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
8. Carina Skyles
c/o Marquis Aurbach Coffing
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9. Danny Ellis
c/o Marquis Aurbach Coffing
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10. Jadey Zaragoza
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
11. Karyn Smith
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
12. Melissa Taylor
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
13. Ricardo Ramirez
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
14. Scott Gutheridge
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
15. Shirley Trummell
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
16. Terry Rising
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
17. Greg Arms
c/o Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145

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(702) 382-0711 FAX: (702) 382-5816

X. MOTIONS IN LIMINE FILED

The parties reserved the right to timely file motions in limine upon the setting of a trial date.

XI. AGREED-UPON TRIAL DATES

The Parties have met and herewith submit the following three (3) agreed-upon trial dates:

1. June 20, 2016
2. July 20, 2016
3. August 1, 2016

It is expressly understood by the undersigned that the Court will set the trial of this matter on one (1) of the agree-upon dates if possible; if not, the trial will be set at the convenience of the Court's calendar.

XII. ESTIMATED LENGTH OF TRIAL

It is estimated that the trial herein will take a total of 3 days.

APPROVED AS TO FORM AND CONTENT:

Plaintiff

Attorney for Nye County Defendants

XIII. ACTION BY THE COURT

This case is set down for Court/jury trial on the fixed/stacked calendar on _____.

Calendar call shall be held on _____.

An original and two (2) copies of each trial brief shall be submitted to the Clerk on or before _____.

Jury Trials:

An original and two (2) copies of all instructions requested by either party shall be submitted to the Clerk for filing on or before _____.

An original and two (2) copies of all suggested questions of the parties to be asked of the jury panel by the Court on voir dire shall be submitted to the Clerk for filing on or before

Court Trials:

Proposed findings of fact and conclusions of law shall be filed on or before

The foregoing pretrial order has been approved by the Parties to this action as evidence by the signatures of their counsel hereon, and the Order is hereby entered and will govern the trial of this case. This Order shall not be amended except by order of the Court pursuant to agreement of the parties of to prevent manifest injustice.

Dated this ____ day of April, 2015.

MARQUIS AURBACH COFFING

JESSE ARON ROSS

By /s/ Brian R. Hardy
CRAIG R. ANDERSON, ESQ.
Nevada Bar No. 6882
BRIAN R. HARDY, ESQ.
Nevada Bar No. 10068
JONATHAN B. LEE
Nevada Bar No. 13524
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Defendants

By _____
JESSE A. ROSS
4-B-28
High Desert State Prison
PO Box 650
Indian Springs, Nevada 89070
Per se Plaintiff

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

CERTIFICATE OF MAILING

I hereby certify that on the ____ day of April, 2015, I served a copy of the foregoing **PROPOSED JOINT PRETRIAL MOTION** upon each of the parties by depositing a copy of the same in a sealed envelope in the United States Mail, Las Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

Jesse Aron Ross, ID #1095756
4-B-28
High Desert State Prison
PO Box 650
Indian Springs, Nevada 89070
Pro Se

and that there is a regular communication by mail between the place of mailing and the place(s) so addressed.

an employee of Marquis Aurbach Coffing

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